

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON AT SEATTLE

NORTHWEST SHEET METAL WORKERS  
WELFARE FUND; NORTHWEST SHEET  
METAL WORKERS PENSION FUND; and  
NORTHWEST SHEET METAL WORKERS  
SUPPLEMENTAL PENSION TRUST,

No.

# COMPLAINT FOR INJUNCTIVE RELIEF

Plaintiffs,

V.

## WHITE FOX BUILDING SERVICES LLC,

Defendant.

## **JURISDICTION AND VENUE**

1. This is an action brought pursuant to Section 301 of the National Labor Relations Act, as amended (hereafter "the Act"), 29 U.S.C. § 185, and Section 502 of the Employee Retirement Income Security Act of 1974 (hereafter "ERISA"), 29 U.S.C. § 1132. Jurisdiction and venue are conferred upon this Court by 29 U.S.C. § 185(a), 1132(a), (e) and (f).

## PARTIES

2. Plaintiff NORTHWEST SHEET METAL WORKERS WELFARE FUND (hereafter "Welfare Trust") is a labor-management health and welfare trust fund created pursuant to the provisions of Section 302(c) of the Act, 29 U.S.C. § 186(c), and authorized to sue in its own name by Section 502(d)(1) of ERISA, 29 U.S.C. § 1132(d)(1). Plaintiff Welfare Fund is

administered in the State of Washington.

3. Plaintiff NORTHWEST SHEET METAL WORKERS PENSION FUND (hereafter "Pension Trust") is a labor-management pension trust fund created pursuant to the provisions of Section 302(c) of the Act, 29 U.S.C. § 186(c), and authorized to sue in its own name by Section 502(d)(1) of ERISA, 29 U.S.C. § 1132(d)(1). Plaintiff Pension Fund is administered in the State of Washington.

4. Plaintiff NORTHWEST SHEET METAL WORKERS SUPPLEMENTAL PENSION TRUST (hereafter “Supplemental Pension Trust”) is a labor-management pension trust fund created pursuant to the provisions of Section 302(c) of the Act, 29 U.S.C. § 186(c), and authorized to sue in its own name by Section 502(d)(1) of ERISA, 29 U.S.C. § 1132(d)(1). Plaintiff Pension Fund is administered in the State of Washington.

5. Defendant WHITE FOX BUILDING SERVICES LLC is a sheet metal contractor and is a party to a collective bargaining agreement with Sheet Metal Workers Local 23. That industry affects commerce within the meaning of the Act. White Fox has employed or does employ persons represented by Local 23. White Fox's principal place of business is 6040 Staedem Dr., Anchorage, AK 99504.

## CLAIM FOR RELIEF

6. Plaintiffs incorporate by reference as though set forth fully herein paragraphs 1 through 5 above.

7. The collective bargaining agreement between Defendant and Local 23 was in effect at all times material hereto. By that agreement Defendant Kessler Brothers became obligated to make monthly contributions to plaintiffs Welfare, Pension, and Supplemental Pension, as well as other funds, on behalf of employees represented by Local 23.

8. Defendant has also agreed to and has received money from its Local 23 employees, as part of the employees' after-tax wages, which Defendant is and was obligated on a monthly basis to deposit into each employee's account, or submit to Local 23 as part of each

1 employee's dues obligation. Defendant holds such money in trust.

2       9. Payments due to the various plaintiff and non-plaintiff Trusts, and the amounts  
3 of employees' after-tax wages held in trust by Defendant, are calculated pursuant to a  
4 contribution reporting form required to be prepared monthly by Defendant.

5       10. The completed contribution reporting form and accompanying payment are due  
6 at the Welfare office and address within fifteen (15) days after the end of each calendar month  
7 and are considered delinquent if not received within 20 days after the end of each calendar  
8 month.

9       11. By virtue of its collective bargaining agreement and/or relevant trust agreements,  
10 Defendant is further required to submit to audits of payroll records at the request of the Plaintiffs.  
11 For the period beginning May 2017 and continuing to the present, Defendant has refused to  
12 comply with the audit process.

13       12. The dollar amount due plaintiffs cannot be ascertained without reviewing  
14 defendant's employment records for the period in question.

15       13. Unless ordered by this Court, Defendant will continue to refuse to comply with  
16 the audit process. As a result, Plaintiffs will be irreparably damaged.

17       14. In addition to compliance with the audit process, Plaintiffs are entitled to the  
18 following pursuant to Section 502(g) of ERISA, 29 U.S.C. § 1132(g), and Section 301 of the  
19 Act, 29 U.S.C. § 185, as amended:

20           (a) Reasonable attorneys' fees and the costs of this action.

21       15. A copy of this complaint will be served upon the Secretary of Labor and the  
22 Secretary of the Treasury by certified mail as required by ERISA, 29 U.S.C. § 1132(h).

23 WHEREFORE, plaintiffs demand judgment against the Defendants:

24       1. Obligating Defendant to comply with the audit process;

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2. Restraining and enjoining Defendant, its officers, agents, servants, attorneys, and all persons acting on its behalf or in conjunction with it from: refusing to comply with the audit process;

3. Requiring Defendant to pay to plaintiffs reasonable attorneys' fees and the costs of this action as set forth in Section 502(g) of ERISA 29 U.S.C. § 1132(g); and

4. Granting plaintiffs such further and other relief as may be just and proper.

DATED this 18th day of January, 2018.

## MCKANNA BISHOP JOFFE, LLP

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